

## REMARKS

In the application claims 49-75 remain pending. Claims 1-48 have been canceled. No claims presently stand allowed. The reconsideration of the rejection of the claims is respectfully requested.

In the Office Action, claims 49-75 were rejected under 35 U.S.C § 103 as being obvious over U.S. Patent No 6,289,165 (“Abecassis”) as modified by the teachings of U.S. Patent No. 6,040,829 (“Croy”) or as being anticipated under 35 U.S.C. § 102 by Croy alone. In rejecting the claims, the Office Action generally set forth that Abecassis discloses function keys 212 that provide, for example, subject category selection, content preference selection, and source selection, which the Office Action asserts correspond to a plurality of navigation keys that are accessible to transmit command codes for commanding the operation of a consumer electronic device to navigate a menu of a digital media playable on the consumer electronic device. The Office Action acknowledges that Abecassis fails to disclose the claimed storage means for storing a sequence of activations of the keys and means for repeating the stored sequence. However, the Office Action further asserts that Croy, which teaches a save function that allows a user to record a sequence of key activations and associate a name with the sequence to recall a list of programs, discloses a storage means for storing a sequence of activations of the keys as well as a means for repeating the stored sequence. Thus, with respect to the obviousness rejection, the Office Action concludes that it would have been obvious to modify Abecassis using the teachings of Croy to arrive at the claimed invention “because this would provide automated capabilities for efficiently retrieving and playing only a specified class, category, or subject mater included in segments within

the selected video or set of videos as may be available from a database or videos.” The rejection of the claims as set forth in the Office Action is, however, respectfully traversed.

It is well settled that an obviousness rejection, like an rejection under 35 U.S.C. § 102, requires that a combination of prior art references disclose each and every element set forth in a claim under consideration. In this regard, each word of a claim must be considered when determining if a claim is anticipated or rendered obvious. Furthermore, when combining references to form an obviousness rejection, it is impermissible to pick and choose from a reference only so much as will support a given position while disregarding what a reference fairly teaches in its entirety. It is also impermissible to combine references absent some teaching, suggestion, or motivation which must be gleaned from the references themselves. One cannot use the disclosure of an applicant as a template to piece together selected parts of the references.

It is first submitted that the obviousness rejection must be withdrawn since the Office Action fails to establish a prima facie case of obviousness. For example, the Office Action has not demonstrated, nor does it even mention, where either Croy or Abecassis disclose, teach, or suggest the expressly claimed “*automatically storing a sequence of key activations, including navigation keys, when the keys are activated (as part of their normal operation) to transmit command codes for commanding the consumer electronic to navigate a menu of a digital media (playable on the consumer electronic device)” or the expressly claimed “means for repeating the stored sequence of activations of the keys to thereby cause a retransmission of command codes corresponding to those activations of the keys that are within the stored sequence.” That*

Abecassis fails to disclose, teach, or suggest these claim elements is expressly set forth in the Office Action. With respect to Croy, while the Office Action asserts that Croy teaches a save function and a recall function, the Office Action never asserts that this save function and recall function operates in the claimed manner. In this regard, when discussing Croy, the Office Action never states that the Croy save function “automatically stores a sequence of key activations, including navigation keys, when the keys are activated to transmit command codes for commanding the consumer electronic to navigate a menu of a digital media (playable on the consumer electronic device). Likewise, the Office Action never states that the Croy recall function “causes a retransmission of command codes corresponding to those activations of the keys that are stored within the sequence.” Rather, as demonstrated below, these claim limitations are ignored with the rejections instead impermissibly distilling the invention down to its “gist” or “thrust:”

However, Croy et al. teach a save function that allows a user to record a sequence of user function key activations and associate a name with the particular sequence of actions corresponding to a storage means for storing a sequence of activations of the keys; and the user may simply press “recall” and “Music” to receive a list of programs that meet these particular qualifiers according to the preselected user preferences corresponding to means for repeating the stored sequence.

(Office Action, Page 3).

The prior art, Croy et al. teaches a save function that allows a user to record a sequence of user function key activations and associates a name with the particular sequence of actions corresponding to a storage means for storing a sequence of activations of the keys

(Office Action, Page 8).

Accordingly, since the rejection of the claims has failed to demonstrate where each and every limitation, considering each and every word, is suggested by the prior art, the rejection of the claims must be withdrawn.

While the Office Action has stated that “...and any television remote control has the same exact feature where the key pressed is automatically stored in the memory and can be reactivated or repeat or retransmit the next time the consumer electronic device is on” the Office Action has cited to no reference in support of this conclusion. According, should the claims be again rejected based up “any television remote control,” the Examiner is requested, in accordance with MPEP § 2144.03, to place some form of evidence into the record to support this assertion of “common knowledge.” Specifically, it is not appropriate for the Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.

It is further respectfully submitted that the reason that the Office Action fails to assert that the aforementioned claim elements are disclosed within Croy is for the very reason that Croy, like Abecassis, simply fails to disclose the recited claim elements. As discussed in the previously filed response, Croy discloses entering a programming mode whereafter key activations may be monitored and stored to allow a user to navigate a locally stored menu, i.e., a menu that is displayed on the personal navigator itself. In this regard, the key activations that are monitored and stored are not utilized to transmit command codes to a consumer appliance. For this very reason, Croy cannot be said to disclose, teach, or suggest the expressly claimed automatically storing a sequence of key activations when the original sequence of key activations is used to transmit navigation

command codes to a consumer electronic device or where the repeated sequence of key activations, which is recalled from memory, results in the retransmission of the navigation command codes to the consumer electronic device. Thus, when Croy is fairly read in its entirety, it is apparent that Croy fails to suggest the desirability of modifying Abecassis to arrive at a remote control having each and every element set forth in the claims at issue and, as such, the rejection of the claims must be withdrawn.

More particularly, the specification of Croy, and particularly Column 18, lines 33-67 cited to in the Office Action, describes a system that accepts explicit user input to initiate a special programming mode (e.g., selecting the “save” function from a menu as illustrated in Fig. 38) whereupon the user may enter a sequence of user interactions by interacting with the locally displayed menu. (Col. 18, line 49 – Col. 19, line 1 and Figs. 39, 40 and 41). *Croy does not mention nor does Croy infer that commands are transmitted from the remote control to a controlled device when the user is interacting with the locally displayed menu in this programming mode.* Once the sequence is complete, the user assigns a name to the sequence (Col. 19, lines 2-7 and Fig. 42) whereby that sequence can be recalled by selecting a “recall” function and the name of the sequence to be executed (Col.19, lines 11-16) which, upon execution, causes a program listing to be displayed locally on the remote control (as illustrated in Fig. 46) in accordance with the programmed sequence. Since this execution of the stored sequence is described and illustrated as only effecting the screen display of the remote control, i.e., the remote control only performs a local operation, it is clear that *Croy does not mention nor does Croy infer that commands are transmitted from the remote control to a controlled device when the user creates and then recalls the stored sequence.*

Still further, it is submitted that the claimed invention performs in a substantially different manner than does the system of Croy. In this respect, as described above, the system of Croy requires the user to *anticipate and preprogram* a desired sequence of instructions to be performed to effect the local display of the remote control. In contrast, the claimed invention provides the user with the ability to repeat a sequence of transmitted commands *after the fact*, i.e., after they have already been once transmitted. Specifically, the claimed invention allows a user to retransmit a sequence of commands that were originally transmitted during the normal operation of the remote control and which are automatically stored for possible retransmission. Thus, the claimed system allows a user to identify a desirable sequence by requesting the retransmission of commands previously transmitted to the controllable appliance.

It is further respectfully submitted that the disclosure by Croy of a “delete” key that “allows removal of the marked program from the list” cannot be said to disclose, teach, or suggest the claimed “removing activations of non-navigation keys from the stored sequence.” In this regard, the applicants respectfully question how a “marked program” can be said to correspond to a “non-navigation key” which is activated as part of a sequence used to transmit command codes to a consumer electronic device for the purpose of navigating a digital media. Likewise, the applicants respectfully question how removal of a “marked program from a list” corresponds to “receiving data from the player used to define navigation commands that are transmittable to the player for controlling navigation of menu system.” Still further, the applicants question how the voice response subsystem of Abecassis which accommodates commands such as play and stop can be said to correspond to the claimed means for storing inter-pause key times,

i.e., the time between activations of keys in a sequence. Since the combination of Abecassis and Croy fail to disclose these claim elements, the claims which recite these claim elements must also be found to be allowable.

It is further respectfully submitted that one of skill in the art would not be motivated to modify Abecassis in the manner suggested in the Office Action. In this regard, when fairly read in its entirety, Abecassis discloses no more than a system that has one-time entry of filtering parameters or playback sequencing which is stored within the system (not the remote) and used thereafter. Specifically, Abecassis discloses a system wherein the user edits a list of preferences, thereby establishing a filter for his content preferences. (Col. 24, lines 21-36). Alternatively, a user may view the playback of a digital media while tagging various segments to be omitted during a subsequent playback, e.g., by a child. (Col. 10, lines 47-53). In either case, once entered, the preference parameters or segment selections, *as opposed to the keystrokes used to define them*, are stored in the system memory (not the remote memory) and automatically applied without further user intervention. (Col. 28, lines 28-33). The only time the user would ever need to reenter editing keystrokes would be a case where the user desired to alter the parameters stored in the system memory, in which case, by definition, the input keystrokes would be different, not repeated. In fact, Abecassis emphasizes a desire to eliminate any need to repeat entry sequences. (Col. 24, lines 20-36 which sets forth that the viewer “preestablish[es] ...personalized video content preferences...[such that], during transmission of the video, viewer intervention is not required.”) Thus, given the fact that Abecassis stores the playback preferences of a viewer at the system for the purpose of avoiding a need to repeat entry sequences, there would be no incentive or

**reason to modify Abecassis as suggested in the Office Action.** For this further reason the obviousness rejection of the claims must be withdrawn.

With respect to the rejection under 35 U.S.C. § 102, it is likewise submitted that this rejection must be withdrawn since Croy fails to disclose the claimed “programming...for receiving data from the player used to define navigation commands that are transmittable to the player for controlling navigation within the menu system [of the media player] and for storing a sequence of the navigation command for subsequent retransmission to the player.” While the Office Action has asserted that such is disclosed at Col. 19, lines 23 – 27 of Croy, it is noted that the disclosure in this cited passage only describes using a delete soft key to remove a marked program from a list of programs locally displayed in the device. Thus, this disclosure cannot be said to disclose, teach, or suggest the claimed receiving from a player data used to *define* navigation commands that are *transmittable* to the player for controlling navigation and for storing a sequence of navigation command for subsequent *transmission* to the player. As discussed extensively above, Croy fails to disclose, teach, suggest, or infer any system of method for storing a sequence of transmittable navigation commands. Therefore, since Croy fails to disclose, teach, or suggest each and every element set forth in the claims, it is respectfully submitted that the rejection based upon 35 U.S.C. § 102 is improper and must be removed.

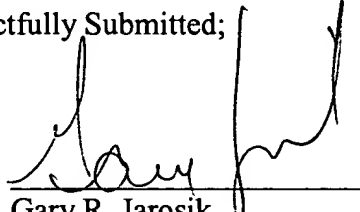


## CONCLUSION

It is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the Examiner is respectfully requested. Should it be determined, however, that a telephone conference would expedite the prosecution of the subject application, the Examiner is respectfully requested to contact the attorney undersigned.

Respectfully Submitted;

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